Supreme Court, U. S.
FILED
JUN 7 1977
MICHAEL RODAK, JR., CLERK

APPENDIX

Supreme Court of the United States

OCTOBER TERM, 1976

No. 76-811

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA,
Petitioner,

—vs.—

ALLAN BAKKE,
Respondent.

ON WRIT OF CERTIORARI
TO THE SUPREME COURT OF CALIFORNIA

PETITION FOR CERTIORARI FILED DECEMBER 14, 1976
CERTIORARI GRANTED FEBRUARY 22, 1977

INDEX

	Page
Chronological List of Relevant Docket Entries	i
Notation of Matters Already Printed as Appendices to Petition for Certiorari	ii
Documents Printed in this Appendix:	
Complaint for Mandatory, Injunctive and Declaratory Relief filed June 20, 1974	1
Amended Answer to Complaint filed August 1, 1974	5
Amended Cross-Complaint for Declaratory Relief filed August 1, 1974	9
Answer to Cross-Complaint for Declaratory Relief filed August 21, 1974	12

Chronological List of Relevant Docket Entries

June 20, 1974—Plaintiff Bakke filed Complaint for Mandatory, Injunctive, and Declaratory Relief in Yolo County Superior Court.

August 1, 1974—Defendant University filed First Amended Answer to Complaint.

August 1, 1974—University filed First Amended Cross-Complaint for Declaratory Relief.

August 21, 1974—Bakke filed Answer to First Amended Cross-Complaint for Declaratory Relief.

November 25, 1974—Opinion (Notice of Intended Decision) issued by trial court.

March 7, 1977—Addendum to Opinion issued by trial court.

March 7, 1977—Trial court issued Findings of Fact and Conclusions of Law.

March 7, 1977—Trial court issued Judgment.

March 20, 1975— University filed Notice of Appeal.

April 17, 1975—Bakke filed Notice of Cross-Appeal.

June 26, 1975—Order transferring case from District Court of Appeal to California Supreme Court.

September 16, 1976—Opinion of California Supreme Court issued.

October 28, 1976—Opinion of California Supreme Court modified to order Bakke's admission.

October 28, 1976—University's Petition for Rehearing denied.

Notation of Matters Already Printed as Appendices to Petition for Certiorari

	Petition Page
Opinion of trial court issued November 25, 1974	81a
Addendum to trial court opinion issued March 7, 1975	109a
Trial court findings and conclusions signed March 7, 1975	113a
Trial court Judgment issued March 7, 1975	119a
Opinion of the Supreme Court of California issued September 16, 1976	1a
Modification of Opinion of Supreme Court of California	80a
Order of California Supreme Court denying reharing	79a

Filed Jun 20 1974

Laurence P. Henigan, Clerk

By William Franas
Deputy

In the Superior Court of the State of California,
In and for the County of Yolo

No. 31287

COMPLAINT FOR MANDATORY, INJUNCTIVE, AND DECLARATORY RELIEF

Allan Bakke,
Petitioner and Plaintiff,

—vs.—

The Regents of the University of California,
Defendants and Respondents.

FIRST CAUSE OF ACTION

Petitioner and plaintiff ALLAN BAKKE (hereinafter called plaintiff) alleges for a first cause of action:

I.

That plaintiff is a citizen of the State of California and of the United States of America.

II.

That defendants and respondents The Regents of the University of California (hereinafter called defendants) are public officers of the State of California, maintaining, operating and administrating the School of Medicine, University of California, Davis, Yolo County, California (hereinafter called said Medical School); that said Medical School is supported by public funds and tax monies and receives federal financial assistance.

III.

That plaintiff duly and timely filed his applications with said Medical School for admission to the first-year classes of said Medical School commencing in September, 1973, and September 1974; that in each year, respectively, plaintiff received notification from said Medical School that his applications were denied.

IV.

That plaintiff was and is in all respects duly qualified for admission to said Medical School and the sole reason his applications were rejected was on account of his race, to-wit, Caucasian or white, and not for reasons applicable to persons of every race, as follows:

That a special admissions committee composed of racial minority members evaluated applications of a special group of persons purportedly from economic and educationally disadvantaged backgrounds; that from this group a quota of 16%, or 16 out of 100 first-year class members, was selected; that in fact, all applicants admitted to said Medical School as members of this group were members of racial minorities; that under this admission program racial minority and majority applicants went through separate segregated admission procedures with separate standards for admissions; that the use of such separate standards resulted in the admission of minority applicants less qualified than plaintiff and other non-minority applicants who were therefore rejected.

V.

That by reason of the action of defendants in excluding plaintiff from the first-year Medical School class under defendants' minority preference admission program, plaintiff has been invidiously discriminated against on account

of his race in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, the Privileges and Immunities Clause of the California Constitution (Art. 1, sec. 21), and the Federal Civil Rights Act (42 U.S.C. sec. 200(d).).

VI.

That plaintiff has no plain, speedy or adequate remedy at law.

SECOND CAUSE OF ACTION

Plaintiff alleges for a second cause of action:

I.

Plaintiff realleges and incorporates herein by reference each and every allegation contained in Paragraphs I through VI of his first cause of action set forth above.

II.

That plaintiff will suffer substantial and irreparable harm by reason of the continued refusal of defendants to admit him to said Medical School.

THIRD CAUSE OF ACTION

Plaintiff alleges for a third cause of action:

I.

Plaintiff realleges and incorporates herein by reference each and every allegation contained in Paragraphs I through VI of his first cause of action set forth above.

II.

That a bonafide and genuine dispute exists between Plaintiff, on the one hand, and, defendants, on the other hand, as to plaintiff's right to be admitted to said Medical School.

WHEREFORE, plaintiff prays:

1. That this Court issue its alternate writ of mandate directing defendants to admit plaintiff to said Medical School, or to appear before the above entitled Court and show cause why said admission to said Medical School may be denied plaintiff.

2. That the above entitled Court issue its order directing defendants to appear and show cause why they should not be enjoined during the pendency of this action and permanently from denying plaintiff admission to said Medical School.

3. That this Court enter its judgment declaring that plaintiff is entitled to admission to said Medical School; and, further declaring, that defendants are lawfully obligated to admit plaintiff to said Medical School.

4. For such other and further relief as to this Court may seem proper.

JACOBS, BLANKENBURG, MAY & COLVIN

By REYNOLD H. COLVIN
Reynold H. Colvin
Attorneys for Plaintiff

(Jurat omitted in printing)

Filed Aug 1 1974
Laurence P. Henigan, Clerk

By Lou Gilmour
Deputy

In the Superior Court of the State of California
In and for the County of Yolo

No. 31287

FIRST AMENDED ANSWER

Allan Bakke,
Petitioner and Plaintiff,

vs.

The Regents of the University of California,
Defendant and Respondent.

Defendant and Respondent THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, a corporation, (hereafter "University") answers the complaint of Petitioner and Plaintiff above named as follows:

FIRST CAUSE OF ACTION

1. In answer to the allegations contained in Paragraph II the University admits and alleges that it is a corporation established by Article IX, Section 9 of the California Constitution with full powers of organization and government over the University of California, a public trust, including the Medical School of the University of California at Davis (hereafter "Davis Medical School"), which is supported by public funds and tax monies and receives federal financial assistance. Except as thus expressly admitted and alleged the University denies each and every allegation contained in Paragraph II.

2. In answer to the allegations contained in Paragraph IV the University admits and alleges that at the time Plaintiff's applications were considered the Davis Medical School established a special admissions program under which the admissions officials of the Davis Medical School considered the minority group status of qualified applicants as a factor in filling a limited number of spaces in each year's first year class for the purpose of promoting diversity in the student body and the medical profession and expanding medical education opportunities for persons from economically or educationally disadvantaged backgrounds. Except as thus expressly admitted and alleged the University denies each and every allegation contained in Paragraph IV.

3. The University denies each and every allegation contained in Paragraph V.

SECOND CAUSE OF ACTION

1. In answer to Paragraph I the University incorporates herein by reference its answers to the allegations contained in Paragraphs I through VI of Plaintiff's First Cause of Action.

2. The University denies each and every allegation contained in Paragraph II.

THIRD CAUSE OF ACTION

In answer to Paragraph I the University incorporates herein by reference its answers to the allegations contained in Paragraphs I through VI of Plaintiff's First Cause of Action.

FIRST AFFIRMATIVE DEFENSE

The complaint and each cause of action fail to state facts sufficient to constitute a cause of action.

SECOND AFFIRMATIVE DEFENSE

The complaint and each cause of action fail to state facts upon which Plaintiff could be granted relief under law, including but not limited to the provisions of Article IX, Section 9 of the California Constitution, vesting in the University discretion to determine admissibility to University educational programs, including the Davis Medical School.

THIRD AFFIRMATIVE DEFENSE

Petitioner was not denied admission to the Davis Medical School as a result of the operation of the special admissions program at said school. Petitioner would not have been admitted to said school even if there had been no such special admissions program.

FOURTH AFFIRMATIVE DEFENSE

The complaint and each cause of action fail to state facts upon which the Plaintiff could be granted relief because the special admissions program at the Davis Medical School to encourage a diverse student body and the enrollment of qualified applicants from disadvantaged backgrounds and which uses minority group status as one factor in determining whether such applicants have disadvantaged backgrounds is consistent with the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, Article I, Section 21 of the California Constitution and 42 U.S.C. §2000(d).

WHEREFORE, the University prays that Plaintiff and Petitioner have no relief as prayed for in his complaint, for costs of suit herein, and for such other and further relief as the court deems proper.

Dated: July 31, 1974.

DONALD L. REIDHAAR
NORMAN I. LUSTIG
JOHN F. LUNDBERG
GARY MORRISON

By DONALD L. REIDHAAR
Donald L. Reidhaar
Attorneys for Defendant and Respondent

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

(Jurat and Declaration of Service Omitted in Printing)

Filed Aug 1 1974
Laurence P. Henigan, Clerk

By Lou Gilmour
Deputy

In the Superior Court of the State of California
In and for the County of Yolo

No. 31287

FIRST AMENDED CROSS-COMPLAINT FOR DECLARATORY RELIEF

Allan Bakke,
Petitioner and Plaintiff
vs.
The Regents of the University of California,
Defendant and Respondent

The Regents of the University of California,
a corporation,
Cross-Complainant,
vs.
Allan Bakke,
Cross-Defendant

Cross-Complainant above named (hereafter "University") cross-complains against Cross-Defendant above named as follows:

1. The University is a corporation established by Article IX, Section 9 of the California Constitution with full powers of organization and government over the University of California, a public trust, including the Medical School of the University of California at Davis (hereafter "Davis Medical School"), which is supported by public funds and tax monies and receives federal financial assistance.

2. Cross-Defendant applied for and was denied admission to the first year classes of the Davis Medical School commencing in September, 1973 and September, 1974.

3. The Davis Medical School evaluates the qualifications of each applicant for admission to determine whether such matters as the academic records, test scores, recommendations, interview results and personal qualities of an applicant qualify him or her for admission. There are many more qualified applicants than the Davis Medical School can admit with its limited resources and facilities. For the academic year 1974-75 there were approximately 3,737 applications for the 100 places in the first year class. As a part of the process of determining which of the qualified applicants will be offered admission the Davis Medical School has established a special admissions program under which preference is given for some of the openings in each class, 16 places in 1973 and 1974, to applicants who will bring diversity to the student body and medical profession and who have economically or educationally disadvantaged backgrounds. One of the factors used by the admissions officials at the Davis Medical School in determining whether a qualified applicant will bring diversity to the class or has a disadvantaged background is the applicant's status as a member of a minority group. These admissions practices are similar to those used at other major medical schools throughout the nation.

4. The special admissions program referred to in Paragraph 3 was in effect at the time Cross-Defendant's applications were considered and remains in effect.

5. An actual controversy has arisen and now exists between the University and Cross-Defendant relating to whether the special admissions program referred to in Paragraph 3 violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, the Privileges and Immunities Clause of the California Constitution (Article I, Section 21), and/or the federal Civil

Rights Act (42 U.S.C. § 2000(d)). The University contends that said special admissions program is lawful and in particular that it is lawful and proper for the admissions officials of the Davis Medical School to give consideration to minority group status, as one relevant factor, in filling a limited number of entering class places as a part of the process of selecting from among qualified applicants, when such consideration is given for the purpose of promoting diversity in the student body and the medical profession and expanding medical education opportunities for persons from economically or educationally disadvantaged backgrounds. Cross-Defendant on the other hand contends it is unlawful to consider the minority group status of an applicant in any way in making admissions decisions.

6. The University desires a declaration with respect to the validity of said special admissions program so that it may ascertain its rights and duties with respect to the evaluation of Cross-Defendant's application and others.

WHEREFORE, the University prays for a judgment declaring the rights and duties of it and Cross-Defendant under said special admissions program and that it be declared that said special admissions program is lawful.

Dated: July 31, 1974

DONALD L. REIDHAAR
NORMAN I. LUSTIG
JOHN F. LUNDBERG
GARY MORRISON

By DONALD L. REIDHAAR
Donald L. Reidhaar

Attorneys for Cross-Complainant
THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

(Jurat and Declaration of Service omitted in Printing)

Filed Aug 21 1974
Laurence P. Henigan, Clerk

By William Franas
Deputy

In the Superior Court of the State of California,
In and for the County of Yolo

No. 31287

ANSWER TO CROSS-COMPLAINT AND FIRST AMENDED CROSS-COMPLAINT FOR DECLARATORY RELIEF

Allan Bakke,
Petitioner and Plaintiff

vs.

The Regents of the University of California,
Defendant and Respondent

The Regents of the University of California,
a corporation,
Cross-Complainant

vs.

Allan Bakke,
Cross-Defendant

Plaintiff and cross-defendant answers the cross-complaint and the first amended cross-complaint for declaratory relief as follows:

1. Admits the allegations contained in paragraphs 1 and 2.

2. Admits the allegations of the first three sentences of paragraph 3. Admits the allegations of paragraph 3 concerning the establishment of a special admissions program, but denies the allegations contained therein that the

special admissions program grants a preference based on disadvantaged backgrounds, plaintiff and cross-defendant further alleging that the preferences of the special admissions program are based on an unlawful racial quota.

3. Admits, with regard to the allegations of paragraph 4, that the special admissions program was in effect, but further alleges that the program preferences were based on an illegal racial quota as alleged in paragraph 3 above.

4. Admits the allegations of paragraph 5 in that an actual controversy has arisen and now exists, but denies the allegations that the special admissions program is lawful and proper, and further alleges that the preferences of the special admissions program are based on an unlawful racial quota.

5. Admits, with regard to paragraph 6, that the university desires the declaration set forth therein.

WHEREFORE, plaintiff and cross-defendant prays that defendant and cross-complainant take nothing by its cross-complaint and first amended cross-complaint herein, and that plaintiff and cross-defendant have judgment as prayed for in his complaint herein.

DATED: August 20, 1974.

JACOBS, BLANCKENBURG, MAY & COLVIN

By: REYNOLD H. COLVIN
Reynold H. Colvin

(Jurat and declaration of service
omitted in printing)